## IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION

CRIMINAL CASE NO. 1:11cr36-5

UNITED STATES OF AMERICA,	)	
	)	
	)	
vs.	)	ORDER
	)	
	)	
BRITTNEY LYNN MOORE.	)	
	)	
BRITTNEY LYNN MOORE.	)	

**THIS MATTER** is before the Court *sua sponte* to continue the case.

On April 5, 2011, the Defendant was charged in a bill of indictment along with seven codefendants with conspiring to possess with intent to distribute at least 50 grams of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 846. [Doc. 2]. The Defendant's initial appearance was held on April 21, 2011, at which time counsel was appointed. On April 26, 2011, the Defendant waived her right to make a personal appearance at an arraignment and pled not guilty. [Doc. 27]. Thereafter, her case was placed on the May 9, 2011 calendar for trial. [Doc. 28].

The Court finds that this case should be continued. "Unless the defendant consents in writing to the contrary, the trial shall not commence less than thirty days from the date on which the defendant first appears through counsel or expressly waives counsel and elects to proceed pro se." 18 U.S.C. § 3161(c)(2). The Defendant here has not so consented, and thus, her trial may not start less than thirty days from her appearance with counsel.

In addition, the Court finds that counsel would not have an adequate opportunity to prepare for trial, taking into account the exercise of due diligence. The Court therefore finds that

a failure to continue the case "would deny counsel for the defendant . . . the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." 18 U.S.C. § 3161(h)(7)(B)(iv).

For the reasons stated herein, the ends of justice served by the granting of the continuance outweigh the best interests of the public and the Defendant in a speedy trial. See 18 U.S.C. § 3161(h)(7)(A).

Accordingly, **IT IS, THEREFORE, ORDERED** that the above-captioned case is **CONTINUED** from the May 9, 2011 term in the Asheville Division.

IT IS SO ORDERED.

Signed: April 26, 2011

Dennis L. Howell

United States Magistrate Judge